

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Figures 13-16 and 29. These sheets, which include Figures 13-16 and 28-29, replace the original sheets including Figures 13-16 and 28-29.

Attachment: Replacement Sheets (5 sheets)

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-15 and 19-20 are presently active in this case. The present Amendment cancels Claims 16-18 without prejudice or disclaimer.

The outstanding Office Action objected to the specification and drawings because of informalities. Claims 1, 7, 14-15 and 19-20 were rejected under 35 U.S.C. §102(e) as anticipated by Hasegawa et al. (U.S. Patent Publication No. 2004/0086751, herein "Hasegawa"). Claims 1 and 19-20 were rejected under 35 U.S.C. §102(e) as anticipated by Fujiwara et al. (U.S. Patent Publication No. 2005/0002126, herein "Fujiwara"). Claims 2 and 12-13 were rejected under 35 U.S.C. §103(a) as unpatentable over Hasegawa. Claims 3-5, 8-10 and 12-13 were rejected under 35 U.S.C. §103(a) as unpatentable over Fujiwara. Claims 6-7 and 11 were indicated as allowable if rewritten in independent form.

Applicants acknowledge with appreciation the indication of allowable subject matter. However, since Applicants consider that independent Claim 1, from which Claims 6-7 and 11 depend, defines allowable subject matter, Claims 6-7 and 11 are maintained in dependent form at present time.

In response to the Restriction Requirement being made final, Claims 16-18, directed to the non-elected invention, are canceled. Applicants reserve the right to present claims directed to the non-elected inventions in a divisional application, which shall be subject to the third sentence of 35 U.S.C. §121.¹

In response to the objections to the specification, the specification is amended to recite "between the substrate electrode 1 and the phase separation layer 9," to correct an

¹ "A patent issuing on an application with respect to which a requirement for restriction under this section has been made ... shall not be used as a reference ... against a divisional application." See also MPEP 804.01.

inconsistency pointed out to by the outstanding Office Action.² Since the change finds non-limiting support in Applicants' disclosure in the specification at page 16, lines 18-19 and in Figures 1-2, it is not believed to raise a question on new matter.

In response to the objection to the drawings, submitted herewith is a Letter Submitting Replacement Drawing Sheet along with five Replacement Sheets for Figures 13-16 and 28-29. In particular, the Replacement Sheets for Figures 13-16 include photographs of TEM patterns that are clearly visible, to replace the Figures 13-16 on file that are objected to. Figure 29 is amended to add the label "prior art," as required by MPEP §608.02(g).

In response to the rejections of independent Claims 1, 14-15 and 19-20 under 35 U.S.C. §102(e) over Hasegawa and Fujiwara, Applicants herewith file an English translation of the Japanese priority document JP 2002-265883, together with a statement that the translation is accurate, in order to perfect priority to the filing date of September 11, 2002 of the priority document JP 2002-265883.

Accordingly, Applicants respectfully request reconsideration of these rejections and traverse the rejections, since Hasegawa and Fujiwara have respective 35 U.S.C. § 102(e) dates of June 25, 2003 and July 3, 2003, which are both after September 11, 2002, the priority date of the present application. Applicants request withdrawal of Hasegawa and Fujiwara from consideration, since Hasegawa and Fujiwara are not prior art. Therefore, all outstanding prior art rejections which rely on Hasegawa and Fujiwara must be withdrawn.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 1-15 and 19-20 is earnestly solicited.

² See the outstanding Office Action at page 3, lines 2-4.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters
Attorney of Record
Registration No. 28,870

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

I:\ATTY\NS\000039\242589US\242589US-AM-DRAFT.DOC